IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

WP(C).No. 986 of 2004(P)

PETITIONERS:
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1. **P.K.KUNHI MOIDEEN, AGED 50,**
   S/O. P.K. MOIDEEN, URDU TEACHER, A.U.P.SCHOOL,
   MANNAZHI, MALAPPURAM.

2. **ABDUL KHAYOOM K.V., AGED 43,**
   S/O.ABDUL RAHIMAN MOULAVI,ARABIC TEACHER(FULL TIME
   A.M.L.P.SCHOOL, ANDIYOORKUNNU, KONDOTTY,MALAPPURAM.

BY ADV. SRI.P.V.MOHANAN

RESPONDENTS:
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1. **THE STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY, GENERAL EDUCATION(J)
   DEPARTMENT, THIRUVANANTHAPURAM.

2. **THE DEPUTY DIRECTOR OF EDUCATION,**
   MALAPPURAM.

3. **THE ASSISTANT EDUCATIONAL OFFICER,**
   MALAPPURAM.

4. **THE ASSISTANT EDUCATIONAL OFFICER,**
   KONDOTTY, MALAPPURAM.

BY GOVT.PLEADER SMT. SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:	**COPY OF FIXATION ORDER OF THE 1ST PETITIONER APPROVED BY THE A.E.O. DTD. 25/11/98.**
EXT.P2:	**COPY OF THE JUNIOR – SENIOR FIXATION ORDER OF THE 1ST PETITIONER APPROVED BY THE ASSISTANT EDUCATIONAL OFFICER DTD. 25/11/98.**
EXT.P3:	**COPY OF THE FIXATION ORDER OF THE 2ND PETITIONER APPROVED BY THE ASSISTANT EDUCATIONAL OFFICER.**
EXT.P4:	**COPY OF THE JUNIOR-SENIOR FIXATION ORDER OF THE 2ND PETITIONER APPROVED BY THE ASSISTANT EDUCATIONAL OFFICER.**
EXT.P5:	**COPY OF CIRCULAR NO.59151/J 2/2000/G.EDN. DTD. 16/5/2002.**
EXT.P6:	**COPY OF LETTER NO.15943/B2/95/G.EDN. DTD. 19/06/98.**
EXT.P7:	**COPY OF LETTER NO.6041/K4/2001 G.EDN. DTD. 21/04/01.**
EXT.P8:	**COPY OF RECTIFICATION REPORT OF THE AUDIT OBJECTION IN RESPECT OF 1ST PETITIONER DTD. 4/07/2003.**
EXT.P9:	**COPY OF PROCEEDINGS NO.C.5463/02 DTD. 21/07/03.**
EXT.P10:	**COPY OF PROCEEDINGS NO.E/2849/93 DTD. 18/07/03 ALONG WITH THE PETITION REPORT.**
EXT.P11:	**COPY OF PROCEEDING NO.E/2849/03 DTD. 18/10/03 ALONG WITH RECTIFICATION REPORT.**
EXT.P12:	**COPY OF THE JUDGMENT IN WP(C) NO.20914/2003 DTD. 07/08/2006.**
EXT.P13:	**COPY OF THE JUDGMENT IN WP(C) NO.10482/2004 DTD.01/09/2006.**
EXT.P14:	**COPY OF THE JUDGMENT IN WP(C) NO.17135/2006 DTD.13/11/2006.**

/TRUE COPY/

Kss

K.M.JOSEPH, J.

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WP.(C) No.986 OF 2004

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Dated this the 2nd day of February, 2007

JUDGMENT

Heard counsel for the petitioners and the learned Government Pleader. The main prayers in the writ petition are as follows:

1. To call for the records leading to Ext.P5 circular dated 16.5.2002 and set aside the same by issuing a writ of certiorari in so far as it declines senior junior fixation to the petitioners and it revises the pay and recovering the same from the salary of the petitioners.

2. To declare that the petitioners are entitled to get senior/junior fixation of pay by stepping up the pay as contemplated in rule 6(ii) of Annexure-III of G.O.(P) 600/93/Fin dated 25.9.1993 and rule 9(2) of Annexure III to G.O.(P) No.3000/98/Fin dated 25.11.1998.

3. To call for the records leading to Ext.P9, Ext.P10 and Ext.P11 and set aside the same in so far as it declines the benefits of senior/junior fixation of pay to the petitioners as contemplated in pay revision order, namely rule 6(ii) of Annexure III of G.O.(P) No.600/93 Fin dated 25.9.1993 and Rule 9(2) of Annexure III to G.O.(P) No.3000/98 Fin dated 25.11l.1998.

There is no dispute that the case at hand is covered by Exts.P12, P13 and P14 judgments.

In such circumstances, the writ petition is allowed and Ext.P5 Circular is quashed in so far as it relates to senior junior fixation of pay and to recover the same from the salary of petitioners. Likewise Exts.P9, P10 and P11 are quashed in so far as it declines the benefit of senior junior fixation to the petitioners as contemplated in pay revision order. It is also declared that petitioners are entitled to senior junior fixation of pay as was done in Exts.P2 and P3.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.